

## Internal Revenue Service

Number: **201237015**

Release Date: 9/14/2012

Index Number: 1361.00-00, 1361.05-00,  
9100.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

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Telephone Number:

Refer Reply To:

CC:PSI:B03

PLR-152555-11

Date:

June 15, 2012

X =

A =

B =

C =

D =

State =

Date =

1

Date =

2

Date =

3

Dear :

This letter responds to a letter dated December 20, 2011, and subsequent correspondence, submitted on behalf of X by its authorized representatives, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to elect to treat A, B, C, and D as qualified subchapter S subsidiaries (QSubs) under § 1361(b)(3) of the Internal Revenue Code (Code).

## FACTS

According to the information submitted, X was incorporated under the laws of State and elected to be an S corporation effective Date 1. On Date 2, X entered into a purchase agreement to acquire all of the stock of A and B, and, through those entities, their wholly owned subsidiaries C and D effective Date 3. X failed to timely file Forms 8869, Qualified Subchapter S Subsidiary Election. X represents that all income tax returns of X and its shareholders have been filed as if the Qsub elections were effective as of Date 3.

## LAW AND ANALYSIS

Section 1361(b)(3)(A) provides that except as provided in regulations prescribed by the Secretary, for purposes of Title 26 (i) a corporation which is a QSub shall not be treated as a separate corporation, and (ii) all assets, liabilities, and items of income, deduction, and credit of a QSub shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

Section 1361(b)(3)(B) defines the term “qualified subchapter S subsidiary” as a domestic corporation which is not an ineligible corporation (as defined in § 1361(b)(2)), if 100 percent of the stock of the corporation is held by an S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations provides the time and manner of making a QSub election. A taxpayer makes a QSub election for a subsidiary by filing Form 8869 with the appropriate service center.

Section 1.1361-3(a)(4) provides that a QSub election cannot be effective more than two months and 15 days prior to the date of filing.

Section 1.1361-3(a)(6) provides that an extension of time to make a QSub election may be available under §§ 301.9100-1 and 301.9100-3.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines a regulatory election to include an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3 provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

### CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X has satisfied the requirements of § 301.9100-3. Accordingly, X is granted an extension of time of one hundred twenty (120) days from the date of this letter to elect to treat A, B, C, and D as QSubs effective Date 3. The election should be made for each subsidiary by filing Form 8869 with the appropriate service center. A copy of this letter should be attached to the elections.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, we express or imply no opinion concerning whether X is a valid S corporation or whether A, B, C, and D are eligible to be QSubs.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representatives.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Sincerely,  
Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_/s/\_\_\_\_\_  
Stacy L. Short  
Senior Technician Reviewer, Branch 3  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2)  
Copy of this letter  
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